

STATE WATER CONTROL BOARD
Amend and Reissue Existing Nonmetallic Mineral Mining General Permit

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act; 40 CFR Parts 122, 123, and 124.

Public Hearing Information: August 29, 2013 - 1:30 p.m. - Department of Environmental Quality, Piedmont Regional Office, Training Room, 4949-A Cox Road, Glen Allen, VA

Public Comment Deadline: September 13, 2013.

Agency Contact: Elleanore M. Daub, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4032, TTY (804) 698-4021, or email elleanore.daub@deq.virginia.gov.

Substance: 9VAC25-190-10 – Definitions. Added definitions for best management practices (BMPs), department (DEQ), municipal separate storm sewer system (MS4), significant spills, and total maximum daily load (TMDL). This terminology is used in the regulation and needed explanation. Also, the amendments deleted metallic products and food processing raw material from the definition of significant materials since these materials would not be found at these facilities and clarified the vehicle/equipment washing definition to match the terminology used in a similar general permit (concrete products).

9VAC25-190-20 and 9VAC25-190-70 – Purpose and Part I. Effective dates were updated to reflect this reissuance.

9VAC25-190-50 A, B – Authorization. Reformatted to match structure of other general permits being issued at this time and added that an owner will be denied authorization when the discharge would violate the antidegradation policy. This change is based on U.S. Environmental Protection Agency (EPA) comments provided on other general permits reissued recently. The requirement that the discharge must meet the assumptions and requirements of a TMDL was reworded to match other general permits.

9VAC25-190-50 C – Added the statement "Compliance with this general permit constitutes compliance with the Clean Water Act, the State Water Control Law, and applicable regulations under either, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation." This was added in response to Attorney General Office comments on other general permits recently reissued to recognize there are some exceptions to compliance with the Clean Water Act as stated in the permit regulation.

9VAC25-190-50 D – Added language to allow for administrative continuances of coverage under the old, expired general permit until the new permit is reissued, and coverage is granted or coverage is denied, provided that the permittee has submitted a timely registration and is in compliance with the existing permit. This language is being added to all recently reissued

general permits so permittees can discharge legally and safely if the permit reissuance process is delayed.

9VAC25-190-60 A – Registration. Reformatted this section to match the structure of other recently reissued general permits. Facilities currently holding an individual Virginia Pollutant Discharge Elimination System (VPDES) permit and requesting coverage under this general permit must notify DEQ 210 days prior to the expiration date of their individual permits, rather than 180 days prior to the expiration dates of the permits. This change gives DEQ 30 days to determine whether coverage can be granted, and the individual permit holder then still has the required 180 days to submit an individual permit application if the request for coverage under the general permit is denied. Existing facilities registration submittal dates were revised to April 1, 2014, which is 90 days prior to expiration instead of 180 days prior. New facilities must submit a registration statement at least 45 days prior to commencement of discharge rather than 30 days prior. These are substantive changes.

9VAC25-190-60 B – Added language accepting late registration statements (after July 1, 2014, the effective date of the regulation), but stated that authorization to discharge will not be retroactive and provides that existing permittees may be granted administrative continuance of an existing permit if a complete registration statement is submitted before July 1, 2014.

9VAC25-190-60 C – Several minor edits to the registration statement questions were made for clarification. The following notification requirement was added to the registration statement in subdivision 15 of subsection C: "Whether the facility will discharge to a municipal separate storm sewer system (MS4). If so, provide the name of the MS4 owner. The owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit, and shall copy the DEQ regional office with the notification. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number." This notification is a permit requirement and the Technical Advisory Committee (TAC) thought it should be repeated as a reminder in the registration process. The question "Indicate if there are vehicle or equipment degreasing activities performed on site. If yes, indicate if there is any process wastewater generated from these activities" was added in subdivision 16 of subsection C because the answer to this question is necessary to determine if total petroleum hydrocarbon limits are required. The requirement to submit monitoring data to determine compliance with a new special condition for Chickahominy watershed discharges that reflect the existing Chickahominy special standards in the water quality standards regulation (see explanation for Part I B 14 below) was added. Also, vehicle equipment or degreasing activities and vehicle washing and return water from operations where mined material is dredged were added to the characterization of each outfall's discharge because they are part of the process water definition. These are substantive changes.

9VAC25-190-60 E – Added the allowance for registration statements to be submitted electronically as well as by postal mail. Previously, registration statements were only submitted as a hard copy with the original signature, but the agency and the TAC thought electronic submissions of registration statements are appropriate at this time. This is a substantive change.

9VAC25-190-65 – Repealed this section, "Termination of permit coverage," and moved it inside the permit itself. This section contains requirements for termination so it is more appropriate as part of the permit.

9VAC25-190-70 Part I A 1 and 2 – General permit limits pages for process water and storm water. Special conditions have been included in the introductory paragraph to Part I, summarizing the requirements of the permit (along with effluent limitations, monitoring, storm water management, and conditions applicable to all permits). The footnotes have been

rearranged in Parts I A 1 and 2 so that they are in order in the limits table. Also, footnote 3 for process water (Part I A 1) states that total petroleum hydrocarbon monitoring is only necessary when vehicle degreasing occurs on site. Vehicle degreasing or equipment degreasing has been clearly defined to mean the washing or steam cleaning of engines or other drive components of a vehicle or of equipment in which the purpose is to degrease and clean petroleum products. It does not mean washing sediment off of trucks. Also the TPH methods in footnote 3 for Part I A 1 are included, and the requirement for "no discharge of floating solids or visible foam" is moved to Part I B 10 (special conditions). In Part I A 2 (storm water limits table), the timing requirements for collecting a storm water sample (at least three days from preceding storm event and during the first 30 minutes of discharge) has been moved to Part II A (monitoring requirements for storm water) with some changes (see explanation for Part II).

9VAC25-190-70 Part I B 1 – Special conditions. The requirement to clean up spilled fluids was revised to delete the words "to the maximum extent possible."

9VAC25-190-70 Part I B 6 – The requirement to modify, revoke, and reissue the permit if a more stringent effluent standard or limit is promulgated by EPA was deleted. General permits are not modified, revoked, or reissued.

9VAC25-190-70 Part I B 10 – The requirement that "There shall be no discharge of floating solids or visible foam in other than trace amounts" was moved into this section from the limits table in Part I A 1. The addition of the requirement that "There shall be no solids deposition or oil sheen from petroleum products in surface water as a result of the industrial activity in the vicinity of the outfall" was added to another general permit (concrete products) and thought to be applicable to this permit as well. It serves as an added measure of protection and something the inspector can look for to ensure proper BMPs, clean up measures, or treatment is occurring.

9VAC25-190-70 Part I B 11 – A definition of "vehicle/equipment washing" is deleted because it had no requirement associated with it and was already in 9VAC25-190-10 (Definitions).

9VAC25-190-70 Part I B 14 – A requirement to meet the Chickahominy special standards (from the water quality standards regulation at 9VAC25-260-310 m) was added. These special standards contain more stringent effluent limits for several parameters for discharges to the Chickahominy watershed. It was included so that any nonmetallic mining permits in that watershed could be eligible for this general permit. This is a substantial change.

9VAC25-190-70 Part I B 15 – Reworded the requirement "to meet applicable water quality standards" to match the wording used in other recently reissued general permits.

9VAC25-190-70 Part I B 16 – Added a new special condition that describes how temporary facility closures at inactive and unstaffed sites will be implemented. The same condition was recently added to another general permit (concrete products). It previously only applied to storm water but now can be implemented for the entire site and now requires board approval and a 30-day reactivation notification. Also, no discharge monitoring reports are required while the facility is inactive and unstaffed. This is a substantive change.

9VAC25-190-70 Part I B 17 – Added a new special condition that describes how terminations of a general permit will be implemented. This is being added to all general permits as they are reissued.

9VAC25-190-70 Part II – Storm Water Management. This entire section was revised to match (for the most part) language in the 2009 Industrial Storm Water General Permit. Some minor differences can be found but these were done with TAC consensus. While most of the language changes seem substantive, the actual requirements for storm water management have not changed significantly.

One edition that the TAC discussed in detail was the timing requirements moved from Part I A 2 (storm water limits table). It has been clarified that samples from a storm water management

structure, which are a series of large settling lagoons, must meet the representative samples requirement. There is no additional timing requirements to obtain a "first flush" of storm water, which is, at most industrial sites, considered the worst case scenario and containing the most pollutants. The timing requirements for typical storm water samples are at least three days from the preceding storm event and during the first 30 minutes of discharge. However, this is not the case when the discharge is through a series of large storm water management structures that hold and settle the solids over time and rarely discharge. If they do discharge, the storm water that is discharged is from the end of the series of control structures where the water has been in the ponds the longest and therefore, the most settled. This sampling requirement for a representative discharge from the storm water control structure versus other storm water discharges was in the 2009 permit, but was not clear.

Another edition was included in sampling waivers. Previously, when a permittee was unable to collect a sample within the monitoring period (annually) due to adverse weather conditions, the permittee was required to collect a substitute sample from the next qualifying event in the next period. Since this permit only required annual sampling, the TAC added a requirement that the permittee must attempt to sample at least four times during the annual sampling period. This change is consistent with the quarterly visual exams and routine inspections.

Part III A – Added "Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories." This is a new regulatory requirement effective January 1, 2012, and is being added to all general permits as they are reissued.

Part III L – Removed requirement to meet sewage sludge standards as sewage discharges are not covered by this permit.

9VAC25-190-70 Part II Y – Transfer of permits. Revised so that the board may waive the automatic transfer timing (30 days in advance of proposed transfer). Permittees are rarely able to meet this requirement and the staff thinks they need flexibility with this. Also references to modifications and revocations and reissuances have been removed as these events are not appropriate for coverage under general permits.

Summary: The proposed amendments reissue the existing Virginia Pollutant Discharge Elimination System (VPDES) general permit that expires on June 30, 2014. The general permit contains limitations and monitoring requirements for point source discharge of treated wastewaters from nonmetallic mineral mining to surface waters. The general permit regulation is being reissued in order to continue making it available for these facilities to continue to discharge, and it will remain effective for five years beginning July 1, 2014, and expiring June 30, 2019.

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

9VAC25-190 - VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) GENERAL PERMIT REGULATION FOR NONMETALLIC MINERAL MINING

9VAC25-190-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31-~~10 et~~

~~seq.~~) unless the context clearly indicates otherwise. Additionally, for the purposes of this chapter:

"Best management practices" or "BMPs" means schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to surface waters. BMPs also include treatment requirements, operating procedures, and practices to control plant site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Colocated facility" means an industrial activity other than mineral mining operating on a site where the primary industrial activity is mineral mining. Such an activity must have wastewater characteristics similar to those of the mineral mine and be located within the permitted mining area. The term refers to activities that are commonly found at mining sites such as manufacturing of ready-mix concrete (SIC Code 3273), concrete products (SIC Codes 3271 and 3272), and asphalt paving materials (SIC Code 2951) except asphalt emulsion manufacturing. It does not mean industrial activity that is specifically excluded from this permit.

"Department" or "DEQ" means the Virginia Department of Environmental Quality.

"Industrial activity" means activity associated with mineral mining facilities generally identified by SIC Major Group 14 including active or inactive mining operations that discharge storm water that has come into contact with any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations. (Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.) Industrial activity also includes facilities classified under other SIC codes that may be colocated within the mineral mine permit area, unless they are expressly excluded by this general permit.

"Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains (i) owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Clean Water Act that discharges to surface waters of the state; (ii) designed or used for collecting or conveying storm water; (iii) that is not a combined sewer; and (iv) that is not part of a publicly owned treatment works (POTW).

"Permittee" means the owner of a nonmetallic mineral mine covered under this general permit.

"Process wastewater" means any wastewater used in the slurry transport of mined material, air emissions control, or processing exclusive of mining, and any other water that becomes commingled with such wastewater in a pit, pond, lagoon, mine, or other facility used for treatment of such wastewater. It includes mine pit dewatering, water used in the process of washing stone, noncontact cooling water, wastewater from ~~vehicle/equipment washing~~ vehicle or equipment degreasing activities, vehicle washing and return water from operations where mined material is dredged and miscellaneous plant cleanup wastewaters.

"Run-off coefficient" means the fraction of total rainfall that will appear at the conveyance as run-off.

"SIC" means the Standard Industrial Classification Code or Industrial Grouping from the U.S. Office of Management and Budget Standard Industrial Classification Manual, 1987 Edition.

"Significant materials" includes, but is not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials ~~such as metallic products; raw materials used in food processing or production~~; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.); any chemical the owner is required to report pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 USC § 11001 et seq.); fertilizers; pesticides; and waste products such as ashes, slag and sludge (including pond sediments) that have the potential to be released with storm water discharges.

"Significant spills" includes, but is not limited to, releases of oil or hazardous substances in excess of reportable quantities under § 311 of the Clean Water Act (see 40 CFR 110.10 and 40 CFR 117.21) or § 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.) (see 40 CFR 302.4).

"Storm water" means storm water run-off, snow melt run-off, and surface run-off and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under 9VAC25-31. For the categories of industries identified in the "industrial activity" definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the mineral mine; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

~~"Vehicle/equipment washing"~~ "Vehicle or equipment degreasing" means the washing ~~with detergents~~ or steam cleaning of engines of a vehicle or piece of equipment and other drive components in which the purpose is to clean and degrease and clean petroleum products from the equipment for maintenance ~~and other purposes. The application of water without detergent to a~~ Washing the vehicle exterior for the purpose of removing sediment is ~~excluded~~ not considered vehicle or equipment degreasing.

9VAC25-190-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced or adopted herein and incorporated by reference that regulation shall be as it exists and has been published as of July 1, 2013.

9VAC25-190-20. Purpose; delegation of authority; effective date of permit.

A. The purpose of this chapter is to establish General Permit Number VAG84 to regulate wastewater discharge from nonmetallic mineral mines as follows:

1. For active and inactive nonmetallic mineral mining facilities in SIC Major Group 14, this general permit covers discharges composed entirely of storm water associated with industrial activity.
2. This general permit authorizes the discharge of process wastewater as well as storm water associated with industrial activity from active and inactive mineral mines classified under ~~Standard Industrial Classification~~ SIC Codes 1411, 1422, 1423, 1429, 1442, 1455, 1459 excluding bentonite and magnesite mines, 1475, and 1499 excluding gypsum, graphite, asbestos, diatomite, jade, novaculite, wollastonite, tripoli or asphaltic mineral mines.
3. Coal mining, metal mining, and oil and gas extraction are not covered by this general permit.

B. The director, or an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This general permit will become effective on July 1, ~~2009~~ 2014, and will expire ~~five years after the effective date~~ June 30, 2019. For any covered owner, this general permit is effective upon compliance with all the provisions of 9VAC25-190-50 and the receipt of this general permit.

9VAC25-190-50. Authorization to discharge.

A. Any owner governed by this general permit is authorized ~~by this~~ to discharge process wastewater and storm water as described in 9VAC25-190-20 A 1 and 2 to surface waters of the Commonwealth of Virginia ~~provided that the owner files a registration statement as described in 9VAC25-190-60 that is accepted by the board, files the required permit fee, complies with the effluent limitations and other requirements of 9VAC25-190-70, and~~ provided that:

1. The owner submits a registration statement in accordance with 9VAC25-190-60, and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-190-70;
4. The owner has a mineral mining permit for the operation to be covered by this general permit that has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or an associated waived program, locality, or state agency) under provisions and requirements of Title 45.1 of the Code of Virginia. Mineral mines located in bordering states with discharges in Virginia shall provide documentation that they have a mining permit from the appropriate state authority. Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement; and
5. The board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

B. The board will notify an owner that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. The owner ~~shall not have been~~ is required to obtain an individual permit ~~as may be required in the VPDES permit regulation (9VAC25-31);~~ in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;

2. The owner ~~shall not be authorized by this general permit~~ is proposing to discharge to state waters specifically named in other board regulations ~~or policies which~~ that prohibit such discharges.;

~~3. The owner shall have a mineral mining permit for the operation to be covered by this general permit which has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program, locality or state agency) under provisions and requirements of Title 45.1 of the Code of Virginia. Mineral mines located in bordering states with discharges in Virginia shall provide documentation that they have a mining permit from the appropriate state authority. Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement.~~

~~4. The owner shall implement pollution control measures necessary to comply with the conditions and limitations of this general permit including, but not limited to, the installation, operation and maintenance of sediment control structures.~~

~~5. The owner shall not be authorized by this general permit to discharge to waters for which a "total maximum daily load" (TMDL) allocation has been established by the board and approved by EPA prior to the term of this permit, unless the owner develops, implements and maintains a storm water pollution prevention plan (SWPPP) that is consistent with the assumptions and requirements of the TMDL. This only applies where the facility is a source of the TMDL pollutant of concern.~~

3. The discharge violates or would violate the antidegradation policy in the water quality standards at 9VAC25-260-30; or

4. The discharge is not consistent with the assumptions and requirements of an approved TMDL.

~~B. The board shall deny coverage under this general permit to any owner with discharge or storm water discharge-related activities which the board determines cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to adversely affect aquatic life.~~

C. ~~Receipt of~~ Compliance with this general permit constitutes compliance with the federal Clean Water Act and the State Water Control Law, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

D. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the nonmetallic mineral mining general permit issued in 2009 and that submits a complete registration statement on or before July 1, 2014, is authorized to continue to discharge under the terms of the 2009 general permit until such time as the board either:

a. Issues coverage to the owner under this general permit; or

b. Notifies the owner that the discharge is not eligible for coverage under this general permit.

2. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following:

- a. Initiate enforcement action based upon coverage under the 2009 general permit that has been continued;
- b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by coverage under the 2009 continued general permit or be subject to enforcement action for discharging without a permit;
- c. Issue an individual permit with appropriate conditions; or
- d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

9VAC25-190-60. Registration statement.

~~The owner shall file a complete general VPDES permit registration statement, which will serve as a notice of intent for coverage under the general permit for nonmetallic mineral mining. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for operation of the mineral mine. Any owner of an existing mineral mine covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing mineral mine covered by the general VPDES permit for nonmetallic mineral mining that became effective on June 30, 1999, who wishes to remain covered by this general permit shall file a new registration statement in accordance with the general permit requirements in order to avoid a lapse in coverage. Any owner of an existing mineral mine not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information:~~ A. The owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for nonmetallic mineral mining facilities.

1. New facilities. Any owner proposing a discharge shall submit a complete registration statement at least 45 days prior to the date planned for commencement of the discharge.

2. Existing facilities.

- a. Any owner covered by an individual VPDES permit that is proposing to be covered by this general permit shall submit a complete registration statement at least 210 days prior to the expiration date of the individual VPDES permit.
- b. Any owner that was authorized to discharge under the VPDES general permit for nonmetallic mineral mining that became effective on July 1, 2009, and that intends to continue coverage under this general permit shall submit a complete registration statement to the board on or before April 1, 2014.

B. Late registration statements. Registration statements for existing facilities covered under subdivision A 2 b of this section will be accepted after July 1, 2014, but authorization to discharge will not be retroactive. Owners described in subdivision A 2 b of this section that submit registration statements after April 1, 2014, are authorized to discharge under the provisions of 9VAC25-190-50 D if a complete registration statement is submitted on or before July 1, 2014.

C. The required registration statement shall contain the following information:

- 1. Facility ~~name~~, owner and operator or other contact name, ~~mailing~~ address, email address, and telephone number;

2. ~~Project~~ Facility name, county, location, latitude, and longitude;
3. Description of mining activity;
4. Primary and secondary SIC codes;
5. Discharge information including:
 - a. A list of outfalls identified by outfall numbers;
 - b. Characterization of the type of each listed outfall's discharge as either process wastewater, storm water, or process wastewater commingled with storm water;
 - c. Characterization of the source of each listed outfall's discharge as either mine pit dewatering, storm water associated with industrial activity (see definition in ~~9VAC25-115-10~~ 9VAC25-190-10), storm water not associated with industrial activity, ground water infiltration, wastewater from ~~vehicle and/or equipment washing activities~~ vehicle or equipment degreasing activities, vehicle washing and return water from operations where mined material is dredged, mined material washing, noncontact cooling water, miscellaneous plant cleanup wastewater, colocated facility discharges (identify the colocated facility), other discharges not listed here (describe), or any combination of the above;
 - d. The receiving stream, including wetlands for each outfall listed;
 - e. The latitude and longitude for each outfall listed; and
 - f. Indicate which storm water outfalls will be representative outfalls that require a single Discharge Monitoring Report (DMR). For storm water outfalls that are to be represented by other outfall discharges, provide a description of the activities associated with those outfalls and explain why they are substantially the same as the representative outfall to be sampled;
6. Indicate if the facility has a current VPDES permit and the permit number if it does;
7. Description of wastewater treatment or reuse/recycle systems or both;
8. List of any chemicals added to water that could be discharged;
9. List of colocated facilities;
10. Indicate if the facility is a hazardous waste treatment, storage or disposal facility;
11. Schematic drawing showing water flow from source to water-using industrial operations to waste treatment and disposal, and disposal of any solids removed from wastewater;
12. Aerial photo or scale map that clearly shows the property boundaries, plant site, drainage areas associated with each outfall, locations of all mine pit dewatering, existing, significant sources of materials exposed to precipitation, storm water or process wastewater outfalls and the receiving streams;
13. Evidence that the operation to be covered by this general permit has a mining permit that has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program) under the provisions and requirements of Title 45.1 of the Code of Virginia (or appropriate bordering state authorization). Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement;
14. Mining permit number;
15. ~~Indicate if the facility discharge storm water into a Municipal Separate Storm Sewer System (MS4). If yes, state the name of the MS4 operator.~~ Whether the permitted outfall will discharge to a municipal separate storm sewer system (MS4). If so, provide the

name of the MS4 owner. The owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit and shall copy the DEQ regional office with the notification. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number

16. Indicate if there are vehicle or equipment degreasing activities performed on site. If yes, indicate if there is any process wastewater generated from these activities.

~~16. The owner shall not be authorized by this general permit unless the discharge complies with Virginia's antidegradation policy in the Water Quality Standards at 9VAC25-260-30. The department will notify the applicant if authorization to discharge under this general permit will not comply with the antidegradation requirements set forth in 9VAC25-260-30.~~

17. Monitoring data to determine compliance with 9VAC25-260-310 m (Chickahominy special standards) as per Part I B 14 of this permit.

~~17.~~ 18. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

D. The registration statement shall be signed in accordance with 9VAC25-31-110.

E. Where to submit. The registration statement may be delivered to the department by either postal or electronic mail and shall be submitted to the DEQ regional office serving the area where the industrial facility is located.

9VAC25-190-65. ~~Termination of permit coverage.~~ (Repealed.)

~~A. The owner may terminate coverage under this general permit by filing a complete notice of termination. The notice of termination may be filed after one or more of the following conditions have been met:~~

- ~~1. Operations have ceased at the facility and there are no longer discharges of storm water associated with industrial activity from the facility;~~
- ~~2. A new owner has assumed responsibility for the facility (NOTE: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement form has been submitted); or~~
- ~~3. All storm water discharges associated with industrial activity have been covered by an individual VPDES permit.~~

~~B. The notice of termination shall contain the following information:~~

- ~~1. Owner's name, mailing address and telephone number;~~
- ~~2. Facility name and location;~~
- ~~3. VPDES industrial storm water general permit number;~~
- ~~4. The basis for submitting the notice of termination, including:~~
 - ~~a. A statement indicating that a new owner has assumed responsibility for the facility;~~

- ~~b. A statement indicating that operations have ceased at the facility and there are no longer discharges of storm water associated with industrial activity from the facility;~~
- ~~c. A statement indicating that all storm water discharges associated with industrial activity have been covered by an individual VPDES permit; or~~
- ~~d. A statement indicating that termination of coverage is being requested for another reason (state the reason); and~~

~~5. The following certification: "I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual permit, or that I am no longer the owner of the industrial activity, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water associated with industrial activity in accordance with the general permit, and that discharging pollutants in storm water associated with industrial activity to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."~~

~~C. The notice of termination shall be signed in accordance with 9VAC25-190-70, Part III K.~~

~~D. The notice of termination shall be submitted to the DEQ regional office serving the area where the industrial facility is located.~~

9VAC25-190-70. General permit.

Any owner whose registration statement is accepted by the board will receive [coverage under](#) the following permit and shall comply with the requirements in it and be subject to all requirements of the VPDES permit regulation, 9VAC25-31.

General Permit No.: VAG84

Effective date: ~~July 1, 2009~~ [July 1, 2014](#)

Expiration date: ~~June 30, 2014~~ [June 30, 2019](#)

GENERAL PERMIT FOR NONMETALLIC MINERAL MINING

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of nonmetallic mineral mines are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations ~~or policies~~ [which that](#) prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations ~~and~~, Monitoring Requirements, [and Special Conditions](#), Part II - Storm Water Management, and Part III - Conditions Applicable to All VPDES Permits, as set forth herein.

Part I

Effluent Limitations and Monitoring Requirements

A. Effluent limitations and monitoring requirements.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater and commingled storm water associated with industrial activity from outfall(s).

Such discharges shall be limited and monitored by the permittee as specified below:

| EFFLUENT CHARACTERISTICS | DISCHARGE LIMITATIONS | | | MONITORING REQUIREMENTS | |
|---|-----------------------|--------------------|--------------------|---|-------------|
| | Monthly Average | Daily Minimum | Daily Maximum | Frequency ⁽³⁾ ⁽¹⁾ | Sample Type |
| Flow (MGD) | NL | NA | NL | 1/3 Months | Estimate |
| Total Suspended Solids (mg/l) | 30 | NA | 60 | 1/3 Months | Grab |
| pH (standard units) ⁽²⁾ | NA | 6.0 ⁽⁴⁾ | 9.0 ⁽⁴⁾ | 1/3 Months | Grab |
| Total Petroleum Hydrocarbons (mg/l) ⁽²⁾ ⁽³⁾ | NA | NA | NL | 1/3 Months | Grab |

NL = No Limitation, monitoring required

NA = Not Applicable

~~⁽⁴⁾Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, pH effluent limits may be adjusted within the 6 to 9 S.U. range.~~

~~⁽²⁾Monitoring for Total Petroleum Hydrocarbons is only required for outfalls from vehicle/equipment washing facilities or from discharges that pass through oil/water separators.~~

~~⁽³⁾Discharge Monitoring Reports (DMRs) of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.~~

⁽¹⁾Discharge Monitoring Reports (DMRs) of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

⁽²⁾Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, those standards shall be the minimum and maximum pH effluent limits.

⁽³⁾Monitoring for total petroleum hydrocarbons is only required for outfalls that contain process wastewater from vehicle or equipment degreasing activities. Total petroleum hydrocarbons shall be analyzed using EPA SW-846 Method 8015 B (1996), 8015C (2000), 8015C (2007), 8015 D (2003) for diesel range organics, or EPA 40 CFR 136.

~~2. There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

~~3.~~ 2. During the period beginning with the permittee's coverage under the general permit and lasting until the permit's expiration date, the permittee is authorized to discharge storm water associated with industrial activity which does not combine with other wastewaters prior to discharge from outfall(s).

Such discharges shall be limited and monitored by the permittee as specified below:

| EFFLUENT CHARACTERISTICS | DISCHARGE LIMITATIONS | | | MONITORING REQUIREMENTS | |
|-------------------------------|-----------------------|---------------|-------------------|---|--|
| | Monthly Average | Daily Minimum | Daily Maximum | Frequency ⁽²⁾ ⁽¹⁾ | Sample Type |
| Flow (MG) | NA | NA | NL | 1/Year | Estimate ⁽⁴⁾ ⁽²⁾ |
| Total Suspended Solids (mg/l) | NA | NA | NL ⁽³⁾ | 1/Year | Grab |
| pH (standard units) | NA | NL | NL | 1/Year | Grab |

NL = No Limitation, monitoring required

NA = Not applicable

⁽¹⁾Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January.

~~⁽⁴⁾(2)~~ Estimate of the total volume of the discharge during the storm event.

~~⁽²⁾Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January.~~

⁽³⁾Refer to Part I B ~~13~~¹² should the TSS evaluation monitoring exceed 100 mg/l daily maximum.

~~4. All samples taken to meet the monitoring requirements specified above in Part I A 3 shall be collected on a storm event that results in an actual discharge (defined as a "measurable storm event") that follows the preceding measurable storm event by at least 72 hours (three days). The 72-hour (three-day) storm interval does not apply if the permittee is able to document that less than a 72-hour (three-day) interval is representative for local storm events during the sampling period. The grab sample shall be taken during the first 30 minutes of the storm water discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the permittee shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. In the case of snowmelt or a discharge from a storm water settling lagoon, a representative sample shall be taken at the time the discharge occurs.~~

B. Special conditions.

1. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to prevent the potential or actual point source pollution of the surface or groundwaters of the state. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or groundwaters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up ~~to the maximum extent practicable~~ and disposed of in a manner so as not to allow their entry into the surface or groundwaters of the state.

2. No sewage shall be discharged from this mineral mining activity except under the provisions of another VPDES permit specifically issued for that purpose.

3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement.

4. The permittee shall submit a new registration statement if the mining permit approved by the Division of Mineral Mining (or associated waived program, or bordering state mine authority) is modified or reissued in any way that would affect the outfall location or the characteristics of a discharge covered by this general permit. Government owned and operated mines without mining permits shall submit the registration statement whenever outfall location or characteristics are altered. The new registration statement shall be filed within 30 days of the outfall relocation or change in the characteristics of the discharge.

5. The permittee shall notify the department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter (100 µg/l);
- (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- (3) Five times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) Five hundred micrograms per liter (500 µg/l);
- (2) One milligram per liter (1 mg/l) for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

~~6. This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation or prohibition for a pollutant which is promulgated or approved under § 307(a)(2) of the federal Clean Water Act, if the effluent standard or limitation so issued or approved:~~

~~a. Is more stringent than any effluent limitation on the pollutant already in the permit;~~
~~or~~

~~b. Controls any pollutant not limited in the permit.~~

~~7.~~ 6. Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters.

~~8.~~ 7. There shall be no discharge of process wastewater pollutants from colocated asphalt paving materials operations. For the purposes of this special condition, process wastewater pollutants are any pollutants present in water used in asphalt paving materials manufacturing which come into direct contact with any raw materials, intermediate product, by-product or product related to the asphalt paving materials manufacturing process.

~~9.~~ 8. Process water may be used on site for the purpose of dust suppression. Dust suppression shall be carried out as a best management practice but not as a wastewater disposal method provided that ponding or direct ~~runoff~~ run-off from the site does not occur during or immediately following its application.

~~10.~~ 9. Process water from mine dewatering may be provided to local property owners for beneficial agricultural use.

~~11. Vehicle/equipment washing shall include washing with detergents or steam cleaning of engines and other drive components in which the purpose is to clean and decrease the equipment for maintenance and other purposes. The application of water without detergent to a vehicle exterior for the purpose of removing is excluded.~~

10. There shall be no discharge of floating solids or visible foam in other than trace amounts. There shall be no solids deposition or oil sheen from petroleum products in surface water as a result of the industrial activity in the vicinity of the outfall.

~~42.~~ 11. The permittee shall report at least two significant digits for a given parameter. Regardless of the rounding convention used (i.e., 5 always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

~~43.~~ 12. Storm Water Monitoring Total Suspended Solids (TSS) Evaluation. Permittees that monitor storm water associated with industrial activity which does not combine with other wastewaters prior to discharge shall review the results of the TSS monitoring required by Part I A ~~3~~ 2 to determine if changes to the Storm Water Pollution Prevention Plan (SWPPP) may be necessary. If the TSS monitoring results are greater than the evaluation value of 100 mg/l, then the permittee shall perform the inspection and maintain documentation as described in Part II H 3 d for that outfall. Any deficiencies noted during the inspection shall be corrected in a timely manner.

~~44.~~ 13. Discharges to waters subject to TMDL waste load allocations. Facilities Owners of facilities that are a source of the specified pollutant of concern to waters for which a total maximum daily load (TMDL) waste load allocation has been ~~established by the board and~~ approved ~~by EPA~~ prior to the term of this permit shall incorporate measures and controls into the SWPPP required by Part II that are consistent with the assumptions and requirements of the TMDL. The department will provide written notification to the owner that a facility is subject to the TMDL requirements. If the TMDL establishes a numeric wasteload allocation that applies to discharges from the facility, the owner shall perform any required monitoring in accordance with Part I A and implement measures necessary to meet that allocation.

14. Discharges in the entire Chickahominy watershed above Walker's Dam (excluding discharges consisting solely of storm water) shall also meet the effluent limitations in 9VAC25-260-310 m (special standards and requirements) of the January 6, 2011, water quality standards regulation. These limitations are BOD₅ (6.0 mg/l average and 8.0 mg/l maximum), total suspended solids (TSS) (5.0 mg/l average and 7.5 mg/l maximum), total phosphorus (0.10 mg/l average), ammonia as nitrogen (2.0 mg/l average), and settleable solids (0.1 mg/l average). These parameters, except for TSS, shall be monitored once per calendar year and the data submitted with the next registration statement (for the 2019 reissuance). TSS data shall be monitored and submitted with the Part I A DMR.

~~15. There shall be no discharge or storm water discharge-related activities that cause or contribute to a violation of water quality standards or that adversely affect aquatic life. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.~~

16. Inactive and unstaffed facilities (including temporarily inactive sites).

a. A waiver of the process and storm water monitoring and routine inspections may be exercised by the board at a facility that is both inactive and unstaffed as long as the facility remains inactive and unstaffed. Such a facility is required to conduct an annual comprehensive site inspection in accordance with the requirements in Part II H 4. No DMR reports will be required to be submitted when a facility is approved as inactive and unstaffed.

b. An inactive and unstaffed sites waiver request shall be submitted to the board for approval and shall include the name of the facility; the facility's VPDES general permit registration number; a contact person, phone number, and email address (if

available); the reason for the request; and the date the facility became or will become inactive and unstaffed. The waiver request shall be signed and certified in accordance with Part III K. If this waiver is granted, a copy of the request and the board's written approval of the waiver shall be maintained with the SWPPP.

c. To reactivate the site the permittee shall notify the department within 30 days, and all process and storm water monitoring and routine inspections shall be resumed immediately. This notification must be submitted to the department, signed in accordance with Part III K, and retained on site at the facility covered by this permit in accordance with Part III B.

d. The board retains the authority to revoke this waiver when it is determined that the discharge causes, has a reasonable potential to cause, or contributes to a water quality standards violation.

17. Notice of termination.

a. The owner may terminate coverage under this general permit by filing a complete notice of termination. The notice of termination may be filed after one or more of the following conditions have been met:

(1) Operations have ceased at the facility and there are no longer discharges of process wastewater or storm water associated with the industrial activity;

(2) A new owner has assumed responsibility for the facility (NOTE: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement Form has been submitted);

(3) All discharges associated with this facility have been covered by an individual VPDES permit or an alternative VPDES permit; or

(4) Termination of coverage is being requested for another reason, provided the board agrees that coverage under this general permit is no longer needed.

b. The notice of termination shall contain the following information:

(1) Owner's name, mailing address, telephone number, and email address (if available);

(2) Facility name and location;

(3) VPDES general permit registration number for the facility; and

(4) The basis for submitting the notice of termination, including:

(a) A statement indicating that a new owner has assumed responsibility for the facility;

(b) A statement indicating that operations have ceased at the facility, a closure plan has been implemented according to the O & M Manual, and there are no longer discharges from the facility;

(c) A statement indicating that all discharges have been covered by an individual VPDES permit; or

(d) A statement indicating that termination of coverage is being requested for another reason (state the reason).

c. The following certification: "I certify under penalty of law that all wastewater and storm water discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge nonmetallic

mineral mining wastewater or storm water in accordance with the general permit, and that discharging pollutants to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

d. The notice of termination shall be submitted to the department and signed in accordance with Part III K.

Part II Storm Water Management

~~A. Recording of results.~~

~~1. Additional information. In addition to any reporting requirements of Part III, for each measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the discharge monitoring report the following information:~~

~~a. The date and duration (in hours) of the storm events sampled; and~~

~~b. The rainfall measurements or estimates (in inches) of the storm event which generated the sampled discharge.~~

~~2. Additional reporting. In addition to filing copies of discharge monitoring reports in accordance with Part III, permittees with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) or a municipal system designated by the board must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system at the same time.~~

A. Monitoring instructions.

1. Collection and analysis of samples. Sampling requirements shall be assessed on an outfall-by-outfall basis. Samples shall be collected and analyzed in accordance with the requirements of Part III A.

2. When and how to sample.

a. In the case of snowmelt or a discharge from a storm water management structure (a series of settling lagoons), a representative sample shall be taken at the time the discharge occurs.

b. For all other types of storm water discharges, a minimum of one grab sample shall be taken resulting from a storm event that results in an actual discharge from the site (defined as a "measurable storm event"), providing the interval from the preceding measurable storm event is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document with the discharge monitoring report (DMR) that less than a 72-hour interval is representative for local storm events during the sampling period. The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of discharge provided that the permittee explains with the DMR why a grab sample during the first 30 minutes was impracticable.

B. Representative discharge. When a facility has two or more exclusively storm water outfalls that the permittee reasonably believes discharge substantially identical effluents, based on a consideration of similarity of industrial activity, significant materials, and management practices and activities within the area drained by the outfalls, then the permittee may submit information with the registration statement substantiating the request for only one DMR to be issued for the outfall to be sampled that represents one or more substantially identical outfalls.

Also the permittee ~~may~~ must list on the ~~discharge monitoring report~~ DMR of the outfall to be sampled all outfall locations that are represented by the discharge.

C. Sampling ~~waiver~~ waivers.

~~1. Adverse conditions. When a permittee is unable to collect samples within a specified sampling period due to adverse climatic conditions, the permittee shall collect a substitute sample from a separate qualifying event in the next period and submit these data along with the data for the routine sampling in that period. When a permittee is unable to conduct storm water monitoring within the specified sampling period due to no measurable storm event or adverse weather conditions, documentation shall be submitted explaining the permittee's inability to conduct the storm water monitoring. The documentation must include at least four dates and the times the outfalls were viewed and sampling was attempted.~~ Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) ~~or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).~~ Acceptable documentation includes but is not limited to National Climatic Data Center Weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data. All documentation shall also be maintained with the SWPPP.

~~2. Inactive and unstaffed facilities. When a permittee is unable to conduct the storm water sampling required at an inactive and unstaffed facility, the permittee may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The permittee must submit to the department, in lieu of monitoring data, a certification statement on the discharge monitoring report stating that the facility is inactive and unstaffed so that collecting a sample during a qualifying event is not possible. The requirement for a quarterly visual assessment does not apply at a facility that is inactive and unstaffed, as long as there are no industrial materials or activities exposed to stormwater.~~

D. Storm water pollution prevention plans (SWPPP). ~~A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.~~ An SWPPP shall be developed and implemented for the facility. The plan shall include best management practices (BMPs) that are reasonable, economically practicable, and appropriate in light of current industry practices. The BMPs shall be selected, designed, installed, implemented, and maintained in accordance with good engineering practices to eliminate or reduce the pollutants in all storm water discharges from the facility. The SWPPP shall also include all control measures necessary for the storm water discharges to meet applicable water quality standards.

The ~~storm water pollution prevention plan~~ (SWPPP) requirements of this general permit may be fulfilled, in part, by incorporating by reference other plans or documents such as an erosion and sediment control plan, a mine drainage plan as required by the Virginia Division of Mineral Mining, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the federal Clean Water Act or ~~best management practices (BMP)~~ BMP programs otherwise required for the facility provided that the incorporated plan meets or

exceeds the plan requirements of Part II H ([contents of plan](#)). ~~If an erosion and sediment control plan is being incorporated by reference, it shall have been approved by the locality in which the activity is to occur or by another appropriate plan approving authority authorized under the Virginia Erosion and Sediment Control Regulations, 4VAC50-30.~~ All plans incorporated by reference into the ~~storm water pollution prevention plan~~ [SWPPP](#) become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements ~~of the storm water pollution prevention plan~~ of Part II H, the permittee must develop the missing ~~plan~~ [SWPPP](#) elements and include them in the required ~~storm water pollution prevention plan~~.

E. Deadlines for plan preparation and compliance.

~~1. Existing facilities and new facilities that begin operation on or before July 1, 2009, shall prepare and implement a plan incorporating the storm water pollution prevention plan requirements of this permit, if not included in an existing plan, as expeditiously as practicable, but not later than July 1, 2010. Existing storm water pollution prevention plans being implemented as of July 1, 2009 shall continue to be implemented until a new plan is developed and implemented.~~

~~2. Facilities that begin operation after July 1, 2009, shall prepare and implement a plan incorporating the requirements of this permit prior to submitting the registration statement.~~

1. Owners of existing facilities that were covered under the 2009 Nonmetallic Mineral Mining General Permit that are continuing coverage under this general permit shall update and implement any revisions to the SWPPP within 90 days of the board granting coverage under this permit.

2. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit that elect to be covered under this general permit shall prepare and implement the SWPPP prior to submitting the registration statement.

3. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall update and implement any revisions to the SWPPP within 60 days of ownership change.

4. Upon a showing of good cause, the director may establish a later date in writing for the preparation and compliance with the SWPPP.

F. Signature and plan review.

1. The ~~plan~~ [SWPPP](#) shall be signed in accordance with Part III K (signatory requirements), and be retained ~~on-site~~ [on site](#) at the facility covered by this permit in accordance with Part III B (records) of this permit. When there are no on-site buildings or offices in which to store the plan, it shall be kept at the nearest company office.

2. The permittee shall make the ~~storm water pollution prevention plan~~ [SWPPP](#), annual site compliance inspection report, or other information available to the department upon request.

3. The director, or an authorized representative, may notify the permittee at any time that the ~~plan does~~ [SWPPP, BMPs, or other components of the facility's storm water program](#) ~~do~~ not meet one or more of the ~~minimum~~ requirements of this part. Such notification shall identify ~~those specific~~ provisions of the permit ~~which that~~ are not being met ~~by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part~~ [and may include required modifications to the storm water program, additional monitoring requirements, and special reporting requirements.](#)

Within 60 days of such notification from the director, or as otherwise provided by the director, or an authorized representative, the permittee shall make the required changes

to the plan and shall submit to the department a written certification that the requested changes have been made.

~~G. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II H 2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. New owners shall review the existing plan and make appropriate changes. Amendments to the plan may be reviewed by the department in the same manner as described in Part II F.~~ Maintaining an updated SWPPP. The permittee shall review and amend the SWPPP as appropriate whenever:

1. There is construction or a change in design, operation, or maintenance that has a significant effect on the discharge or the potential for the discharge of pollutants to surface waters;
2. Routine inspections or compliance evaluations determine that there are deficiencies in the BMPs;
3. Inspections by local, state, or federal officials determine that modifications to the SWPPP are necessary;
4. There is a spill, leak, or other release at the facility; or
5. There is an unauthorized discharge from the facility.

SWPPP modifications shall be made within 30 calendar days after discovery, observation, or an event requiring an SWPPP modification. Implementation of new or modified BMPs (distinct from regular preventive maintenance of existing BMPs described in Part II H 3 b (preventative maintenance) shall be initiated before the next storm event if possible, but no later than 60 days after discovery, or as otherwise provided or approved by the director. The amount of time taken to modify a BMP or implement additional BMPs shall be documented in the SWPPP.

If the SWPPP modification is based on a release or unauthorized discharge, include a description and date of the release, the circumstances leading to the release, actions taken in response to the release, and measures to prevent the recurrence of such releases. Unauthorized releases and discharges are subject to the reporting requirements of Part III G of this permit.

H. Contents of plan. The plan shall include, at a minimum, the following items:

- ~~1. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.~~ Each plan shall identify the staff individuals by name or title who comprise the facility's storm water pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining, revising, and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.
- ~~2. Description of potential pollutant sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall~~

~~identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:~~ Summary of potential pollutant sources. The plan shall identify where industrial materials or activities at the facility are exposed to storm water. The description shall include:

a. ~~Drainage. Site map.~~ The site map shall document:

(1) ~~A site map indicating an~~ An outline of the ~~portions of the~~ drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water run-off, surface water bodies, locations where ~~significant~~ materials are exposed to precipitation, locations where major spills or leaks identified under Part II H 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle ~~and equipment maintenance and/or~~ or equipment degreasing, cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes and wastewaters, liquid storage tanks, processing areas and storage areas. The map must indicate all outfall locations. The types of discharges contained in the drainage areas of the outfalls must be indicated either on the map or in an attached narrative.

(2) For each area of the facility that generates storm water discharges associated with industrial activity with a ~~reasonable~~ potential for containing significant amounts of pollutants, ~~a prediction of the direction of flow;~~ locations of storm water conveyances, including ditches, pipes, swales, and inlets, and the directions of storm water flow and an identification of the types of pollutants ~~which that~~ are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant ~~leaks or~~ spills or leaks of toxic or hazardous pollutants. Flows with a ~~significant~~ potential for causing erosion shall be identified.

b. Inventory of exposed materials. ~~An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water run-off between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water run-off; and a description of any treatment the storm water receives.~~ A list of the industrial materials or activities, including but not limited to material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, byproducts, final products, and waste products. Material handling activities include but are not limited to the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product, or waste product.

c. Spills and leaks. A list of significant spills and ~~significant~~ leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

- d. Sampling data. A summary of existing ~~discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.~~ storm water sampling data taken at the facility. The summary shall include, at a minimum, any data collected during the previous three years.
- e. ~~Risk identification and summary of potential pollutant sources. A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.~~
3. ~~Measures and controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility.~~ Storm water controls. BMPs shall be implemented for all areas identified in Part II H 2 b (inventory of exposed materials) to prevent or control pollutants in storm water discharges from the facility. All reasonable steps shall be taken to control or address the quality of discharges from the site that may not originate at the facility. The SWPPP shall describe the type, location, and implementation of all BMPs for each area where industrial materials or activities are exposed to storm water. The ~~description of storm water management controls~~ BMPs shall also address the following minimum components, including a schedule for implementing such controls:
- a. Good housekeeping. Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. The plan shall describe procedures performed to minimize contact of materials with storm water run-off. Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, vehicle fueling and maintenance areas, and loading/unloading areas.
- b. Preventive maintenance. A preventive maintenance program shall involve ~~timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility~~ regular inspection, testing, maintenance, and repairing of all industrial equipment and systems to ~~uncover conditions that could cause~~ avoid breakdowns or failures ~~resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.~~ that could result in leaks, spills, and other releases. All BMPs identified in the SWPPP shall be maintained in effective operating condition. The SWPPP shall include a description of procedures and a regular schedule for preventive maintenance and observation of all BMPs and shall include a description of the back-up practices that are in place should a run-off event occur while a BMP is off line or not operating effectively. The effectiveness of nonstructural BMPs shall also be maintained by appropriate means (e.g., spill response supplies available and personnel trained). If site inspections required by Part II H 3 d (routine facility inspections) or Part II H 4 (comprehensive site compliance evaluation) identify BMPs that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance prior to the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable. Documentation shall

be kept with the SWPPP of maintenance and repairs of BMPs, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair or replacement, date(s) for repairs, date(s) that the BMP(s) returned to full function, and the justification for an extended maintenance or repair schedules. The maintenance program shall require periodic removal of debris from discharge diversions and conveyance systems. Permittees using settling basins to control their effluents must provide maintenance schedules for such basins in the pollution prevention plan.

c. ~~Spill prevention and response procedures. Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.~~ The plan shall describe the procedures that will be followed for preventing and responding to spills and leaks, including barriers between material storage and traffic areas, secondary containment provisions, procedures for material storage and handling, response procedures for notification of appropriate facility personnel, emergency agencies, and regulatory agencies and procedures for stopping, containing, and cleaning up spills. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the pollution prevention team. Contact information for individuals and agencies that must be notified in the event of a spill shall be included in the SWPPP and in other locations where it will be readily available.

d. ~~Inspections.~~ Routine facility inspections.

(1) Facility personnel who are familiar with the mining activity, the best management practices and the storm water pollution prevention plan shall be identified to inspect material storage and handling areas, including but not limited to areas where aggregate is stockpiled outdoors, liquid storage tanks, hoppers or silos, vehicle and equipment maintenance areas, cleaning and fueling areas, material handling vehicles and designated material handling vehicles, equipment, and processing areas of the facility; to inspect vehicle and equipment maintenance areas and cleaning and fueling areas; to inspect best management practices; and to conduct visual examinations of storm water associated with industrial activity.

(2) The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly. Inspections of best management practices shall include inspection of storm water discharge diversions, conveyance systems, sediment control and collection systems, containment structures, vegetation, serrated slopes, and benched slopes to determine their effectiveness, the integrity of control structures, if soil erosion has occurred, or if there is evidence of actual or potential discharge of contaminated storm water.

(3) Visual examinations of storm water discharges associated with industrial activity shall include examination of storm water samples representative of storm event discharges from the facility and observation of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution.

(4) Site inspection, best management practices inspection and visual examination results must be documented and maintained on-site with the ~~facility pollution prevention plan~~ SWPPP. Documentation for visual examinations of storm water shall include the examination date and time, examination personnel, outfall location, the nature of the discharge, visual quality of the storm water discharge and probable sources of any observed storm water contamination. Part II B regarding representative discharges and Part II C regarding sampling waivers shall apply to the taking of samples for visual examination except that (i) the documentation required by these sections shall be retained with the ~~storm water pollution prevention plan~~ SWPPP visual examination records rather than submitted to the department, and (ii) substitute sampling for waived sampling is not required if the proper documentation is maintained.

(5) A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections.

e. Employee training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

f. Recordkeeping and internal reporting procedures. A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. Ineffective best management practices must be recorded and the date of their corrective action noted.

g. Sediment and erosion control. The plan shall identify areas ~~which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, or stabilization measures to be used to limit erosion. Permittees must indicate the location and design for proposed best management practices to be implemented prior to land disturbance activities. For sites already disturbed but without best management practices, the permittee must indicate the location and design of best management practices that will be implemented. The permittee is required to indicate plans for grading, contouring, stabilization, and establishment of vegetative cover for all disturbed areas, including road banks.~~ that, due to topography, land disturbance (e.g., construction, landscaping, site grading), or other factors, have a potential for soil erosion. The permittee shall identify and implement structural, vegetative, or stabilization BMPs to prevent or control on-site and off-site erosion and sedimentation.

h. Management of run-off. The plan shall ~~contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or sources of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water run-off in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Part II H 2 (description of potential pollutant sources) of this permit) shall be considered when determining reasonable and appropriate measures.~~ describe the

storm water run-off management practices (i.e., permanent structural BMPs) for the facility. These types of BMPs are typically used to divert, infiltrate, reuse, or otherwise reduce pollutants in storm water discharges from the site. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

4. Comprehensive site compliance evaluation. Facility personnel who are familiar with the mining activity, the ~~best management practices and the storm water pollution prevention plan~~ BMPs, and the SWPPP shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less frequently than once a year ~~for active sites. When annual compliance evaluations are shown in the plan to be impractical for inactive mining sites due to remote location and inaccessibility, site evaluations must be conducted at least once every three years.~~ Evaluations shall include all areas where industrial materials or activities are exposed to storm water as identified in Part II H 2 b (inventory exposed materials). Such evaluations shall include the following:

a. Areas contributing to a storm water discharge associated with industrial activity, including material storage and handling areas; ~~liquid storage tanks; hoppers or silos; vehicle and equipment maintenance, cleaning, and fueling areas; material handling vehicles; equipment and processing areas; and areas where aggregate is stockpiled outdoors~~ (e.g., areas where aggregate is stockpiled outdoors, liquid storage tanks, hoppers or silos, material handling vehicles, equipment, and processing areas); vehicle and equipment maintenance areas and cleaning and fueling areas; off-site tracking of industrial or waste materials or sediment where vehicles enter or exit the site; tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas; and residue or trash shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made. A review of training performed, routine inspections completed, visual examinations completed, maintenance performed, and effective operation of BMPs, shall be made.

b. Based on the results of the evaluation, the ~~description summary~~ of potential pollutant sources identified in the plan in accordance with Part II H 2 ~~(description summary~~ of potential pollutant sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with Part II H 3 ~~(measures and controls)~~ (storm water controls) of this permit shall be revised as appropriate within 14 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.

c. A report summarizing the scope of the inspection, personnel making the inspection, the dates of the inspection, ~~major~~ observations relating to the implementation of the ~~storm water pollution prevention plan~~ SWPPP, including the elements stipulated in Part II H 4 a, and actions taken in accordance with Part II H 4 b of this permit shall be made and retained as required in Part III B (records). The

report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the ~~storm water pollution prevention plan~~ [SWPPP](#) and this permit. The report shall be signed in accordance with Part III K (signatory requirements) of this permit and retained as required in Part III B.

d. Where compliance evaluation schedules overlap with inspections required under Part II H 3 d (inspections), the compliance evaluation may be conducted in place of one such inspection.

Part III

Conditions Applicable To All VPDES Permits

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.
4. [Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.](#)

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. ~~Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the~~ [The](#) permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating [coverage under](#) this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from ~~his~~ [its](#) discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F (unauthorized discharges); or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify [\(see NOTE in Part III I\)](#), in no case later than 24 hours, the department ~~by telephone~~ after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this subdivision:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Parts III G, H and I may be made to the department's regional office. Reports may be made by telephone ~~or by fax~~, [FAX, or online at http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx](http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx). For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the federal Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the federal Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board, shall be signed by a person described in Part III K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described in Part III K 1;
- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and
- c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the federal Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the federal Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of ~~a permit renewal application~~ [permit coverage](#).

~~The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the federal Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the federal Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.~~

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least ~~180~~ [210](#) days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights or any infringement of federal, state or local laws or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties

established pursuant to, any other state law or regulation or under authority preserved by § 510 of the federal Clean Water Act. Except as provided in permit conditions on "bypass" (Part III U) and "upset" (Part III V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

2. Notice.

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted if possible at least 10 days before the date of the bypass.

- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I (reports of noncompliance).

3. Prohibition of bypass.

- a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering

judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed in Part III U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

- a. An upset occurred and that the permittee can identify the cause(s) of the upset;
- b. The permitted facility was at the time being properly operated;
- c. The permittee submitted notice of the upset as required in Part III I; and
- d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the federal Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.~~4. Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the federal Clean Water Act. 2. As an~~

~~alternative to transfers under Part III Y 1,~~ Coverage under this permit may be automatically transferred to a new permittee if:

~~a.~~ 1. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property unless permission for a later date has been granted by the department;

~~b.~~ 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

~~c.~~ 3. The board does not notify the existing permittee and the proposed new permittee of its intent to ~~modify or revoke and reissue~~ deny the permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2-~~b.~~

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

FORMS (9VAC25-190)

~~Department of Environmental Quality Water Division Permit Application Fee (rev. 1/08)~~

~~Local Government Ordinance Form (eff. 8/93).~~

Department of Environmental Quality Water Division Permit Application Fee (rev. 5/13).

Virginia Pollutant Discharge Elimination System Change of Ownership Agreement Form (undated)

Virginia Pollutant Discharge Elimination System General Permit Registration Statement - Nonmetallic Mineral Mining.

Virginia Pollutant Discharge Elimination System General Permit Notice of Termination for Nonmetallic Mineral Mining.